

# SPEECH OF MR. MOREHEAD, OF KENTUCKY,

ON THE

BILL TO INCORPORATE THE SUBSCRIBERS

TO THE FISCAL BANK OF THE UNITED STATES.

Delivered in the Senate of the United States, July 27, 1841.

MR. PRESIDENT: The Senator from Pennsylvania, [Mr. BUCHANAN,] in the course of his very able argument, in reply to the report of the Committee on the Currency, and to the observations of my colleague, [Mr. CLAY,] in support of the charter of the proposed bank, excepted, in strong terms, to the position assumed by the committee in reference to the settlement of the constitutional question involved by this bill. "The committee," says the honorable Senator, "express a decided opinion that the power of Congress to establish a national bank ought to be regarded as a settled question." "It is settled"—"it must be considered as settled," say all the friends of the bank, and their arguments on this subject have been urged for the purpose of proving, not that the question ought to be, but that it is settled in their favor." "Before a court of law, in a case involving private rights under either of the old charters, it may be considered as settled; but the proposition now before Congress is to create a new bank, the two old banks having lived out the allotted period of their existence. The question is now put to the conscience of each Senator, and he is asked, "Do you possess the power, under the Constitution, to create this bank?" If all the judges and all the lawyers in Christendom had decided in the affirmative, when the question is thus brought home to me, as a legislator, bound to vote for or against a new charter, upon my oath to support the Constitution, I must exercise my own judgment.

The Senator proceeded to declare his "respect for judicial decisions within their appropriate sphere," and having denied that "there is any judicial precedent in existence which can restrain, or ever intended to restrain, the freedom of members of Congress in voting for a new bank," he asks, "if the question has not been settled by the judiciary, has it been settled by Congress? Certainly not. If two national banks have been chartered, they have both been suffered to expire at the termination of their charters, *because their existence was believed to be a violation of the Constitution*. To say the least, then, the legislative precedents are equal. But, if we take into consideration the repeated attempts to establish a bank which have failed, Congress have much oftener decided against the power than in its favor."

"In short," the Senator concluded, "the question has neither been settled by the judiciary, nor by Congress, nor by the People, nor by the Executive, unless it may have been against the existence of this dangerous power, and against the policy of its exercise."

The Senator from Virginia [Mr. RIVES] takes, in some respects, the same view. He contends that "this mooted question has received different decisions at the hands of the People and their representatives, at different times." "If it has been settled one way at one time, it has been settled another way at another time; the result of which is, that it is yet an unsettled and open question, and will probably remain so, in the public judgment."

From this statement of what fell from the honorable Senators from Pennsylvania and Virginia, it is observable that they agree in opinion "that the legislative precedents are equal;" that it is yet an unsettled and open question; that "it has received different decisions at different times." But the Senator from Pennsylvania goes one step farther than my friend from Virginia, and asserts that the two national banks which have been chartered by Congress have been suffered to expire "*because their existence was believed to be a violation of the Constitution*." He asserts also that, considering "the repeated attempts to establish a bank that have failed, Congress have much oftener decided against the power than in its favor."

It is not my purpose to go at large into the discussion of the abstract question of the constitutional power of Congress to incorporate a bank. It has been discussed at four different periods in our history by the ablest men that this country has ever produced. It was discussed in these halls in 1791, in 1811, in 1816, and in 1832. It has been discussed before the People, before the Legislatures of the States, and it has been solemnly determined by the supreme judicial tribunal of the nation. No single question of constitutional power has been so thoroughly investigated. It would be folly for me to attempt—I shall not attempt—to contribute a ray to the overwhelming flood of light by which the subject has been surrounded.

I propose to show, Mr. President, that so far from the legislative precedents being equal, they are all one way; that Congress have never, in a single instance, "in the repeated attempts to establish a bank," decided against the exercise of the power on constitutional grounds; that, if the charters of former banks have been permitted to expire, it has not been, as the Senator from Pennsylvania supposes, because Congress believed their existence to be a violation of the Constitution, but the contrary; and that if any question of doubtful power under the Constitution can be regarded as settled, this is that question.

I begin with the year 1791, premising only that I shall content myself with stating results without comment, except such as may be indispensable for their elucidation.

1. The first charter was introduced into the Senate in December, 1790. It passed both Houses of Congress by very decisive majorities. On the 14th February, 1791, it received the approbation of the President.



2. In March, 1808, a memorial of the stockholders of the bank was presented to the House of Representatives, and in the following month to the Senate, praying a renewal of their charter. No other action was had upon the subject than to refer the memorial to the Secretary of the Treasury, "to consider and report thereon at the next session of Congress." On the last day of that session; that is to say, on the 3d day of March, 1809, the Vice President communicated to the Senate the report of the Secretary, and it remained among the unfinished business. At the ensuing session the House resumed its consideration, and the memorial was referred, on the 29th January, 1810, to a select committee. The report of the committee recommended the adoption of a resolution, declaring that "it was proper to make provision for continuing the establishment of the Bank of the United States, with offices of discount and deposit, under the regulations necessary for the beneficial administration of the national finances, during such time and on such conditions as may be defined by law." It was referred to the Committee of the Whole House, but that committee was subsequently discharged from its consideration, and reference was made of it to another select committee, *with instructions to report a bill*. A bill was reported accordingly to continue the charter of the bank for twenty years. No question arose, no vote was taken, on the merits of the bill. The whole subject was permitted to lie over until another session of Congress.

3. On the 18th December, 1810, the memorial of the stockholders was again presented in the House of Representatives, and the committee to whom it was referred reported a bill for the continuation of the charter of the bank. After a very elaborate discussion the question was taken upon a motion made by Mr. Newton, of Virginia, to postpone the bill indefinitely. The motion prevailed by a majority of *one vote only*—ayes 65, noes 64—in the absence of eleven members of the House.

Shortly after this determination, Mr. Crawford brought forward a similar bill in the Senate; and a motion to strike out the first section, which was equivalent to its rejection, was decided in the affirmative by the casting vote of the Vice President, and the bill fell in both Houses.

This, sir, is one of the cases which, in the opinions of the Senators from Pennsylvania and Virginia, constitutes a precedent against the bank. This is one of those attempts, the failure of which is relied on to prove that the Congress of 1811 believed that the power to establish a bank did not exist. A few words only on that point. Assuming it to have been a decision *against* the power, it must be admitted to carry with it very little force as an authority, when we consider that the bill was lost by a majority of *one vote* in each House of Congress. But the truth is, that the question did not turn exclusively on the constitutional power. There were members of both Houses who opposed the bill, believing it to be constitutional. For one of those who voted in the House of Representatives for the indefinite postponement, I am authorized to say that he did not then, and does not now, and never did, entertain a doubt upon the constitutional question. I allude to a venerable and distinguished member, then, and now, of the House of Representatives, (Governor Morrow, of Ohio,) a gentleman, of whom I may be permitted to add, that the soundness of his political principles are only equalled by the purity of his private, and the uprightness and consistency of his public life. *His vote*, if the question had been one alone of constitutional power, would have cast the balance in favor of the bill, and changed the precedent the other way.

Thus stood the case in the House. How did it stand in the Senate? Sir, we have the authority of Mr. Madison for saying that "as to the negative of the Senate by the casting vote of the presiding officer, it is a fact, *well understood at the time*, that it resulted from an equality of opinions in that assembly on the power of Congress to establish a bank, but from a junction of those who admitted the power but disapproved the plan, with those who denied the power. *On a simple question of constitutionality*," he adds, "*there was a decided majority in its favor.*"

But the fact does not rest alone on the authority, indisputable as it is, of that great and good man. The proof is still more direct and explicit. In the discussion which occurred in the Senate on the President's veto message in 1832, a distinguished Senator from Maryland (General Samuel Smith) declared in his place, in answer to a question put to him by Mr. Webster, that "he had voted against the bank in 1811, but *not at all on constitutional grounds*; and he had no doubt such was the case with other members of the Senate." *His vote* would have decided the question favorably to the exercise of the power. So much for the precedent of 1811.

4. The next movement, Mr. President, occurred during the session of Congress which commenced in December, 1813.

In January, 1814, a petition was presented in the House of Representatives from New York, praying the establishment of a national bank, which was referred to the Committee of Ways and Means. Mr. Eppes, from Virginia, was the chairman of the committee. On the 20th January he reported to the House that, in the opinion of the committee, Congress did not possess the power to create corporations within the territorial limits of the States, *without the consent of the States*, and the report, as usual, was referred to the Committee of the Whole. On the motion of Mr. Calhoun, of South Carolina, that committee was discharged from the consideration of the subject, and the Committee of Ways and Means were instructed to inquire into the expediency of establishing a national bank, to be located in the District of Columbia. A bill was reported, in conformity with the instructions of the House, which was read and committed. On the 10th March, Mr. Fisk, of New York, moved to discharge the Committee of the Whole House from the consideration of that bill, and that it be referred to a select committee, with instructions to report a bill with provisions for the establishment of a national bank with branches. This latter motion was rejected by the House, and no further action was had on the bill of the Committee of Ways and Means.

If the proceedings had stopped here, there would be some reason for supposing that the opinion of the House was, in this instance, unfavorable to the exercise of the power to establish a bank with branches.



But in less than a month another movement was made, which is clearly indicative of a different intention. On the 2d April, Mr. Grundy, from Tennessee, submitted a resolution that "a committee be appointed to inquire into the expediency of establishing a national bank, and that they have leave to report by bill or otherwise." Mr. Grundy said, "he wished to see a bank established as a national object, let who will be in power;" "he entertained no constitutional scruples about it;" "he always had been in favor of a measure of this sort;" and "in point of time, he thought the present situation of the country afforded a cogent argument in favor of the measure." Mr. Newton, of Virginia, "moved that the resolution be postponed indefinitely," but the House refused the motion—*seventy-one* voting in the affirmative, and *eighty* in the negative.

Mr. Hall, of Georgia, proposed to amend the resolution by adding after the word "bank," the words "within the District of Columbia," but the motion failed, only thirty-two voting in favor of it. On the 8th of April, at the instance of Mr. Grundy, the chairman of the last-mentioned committee, they were discharged from the further consideration of the resolution—and there, for that session, the action of the House terminated. The motives which induced the chairman (Mr. Grundy) to make the motion to discharge the committee, are fully indicated by the debates upon this resolution. The session was near its close. Mr. Newton alleged as his reason for moving the postponement, that "the time rapidly approached at which the House had resolved to adjourn"—"that but nine days remained of the session"—and the journals show that Congress *did* adjourn on the 16th April, only eight days afterwards. The subject was not brought up in the Senate; but the decided expression of the judgment of the House *against* a motion for an indefinite postponement, is conclusive proof of the solicitude which was felt by a majority of that body, that a bank charter, in some shape, should pass. Such is the history of the *failure of another of the attempts* to which the Senator from Pennsylvania has alluded.

5. But, sir, the great object of restoring the currency was far from being abandoned. There was an all-pervading impression that nothing but a national bank could relieve the Government, and, consequently, at the next session of Congress the House of Representatives resumed the subject. Another memorial from New York was referred to the Committee of Ways and Means, of which Mr. Eppes continued to be the chairman. On the 10th October, 1814, that committee made a report on the finances of the Government, embracing four resolutions, none of which contained a proposition for a bank. Upon a reference of that report to a Committee of the Whole, the latter committee amended the resolutions by the addition of three others, one of which declared that "it is expedient to establish a national bank with branches in the several States." This resolution was adopted by the House—*ayes 93, noes 34*; and having been referred to the Committee of Ways and Means, that committee on the 7th November, reported a bill to incorporate a Bank of the United States. In consequence, however, of differences of opinion respecting the details, and for that reason alone, the bill was rejected on the 28th November, 1814.

However, sir, on the 2d of the following month of December, a similar bill was reported in the Senate. Such was the belief of the necessity of a bank of some sort, that it passed that body on the 19th of the same month. In its progress through the House of Representatives, that bill also proved to be unacceptable to the majority, and it was rejected, on its final passage, by the casting vote of the Speaker, (Mr. Cheves, of South Carolina.) A motion to reconsider was made and carried, *one hundred and seven* voting in the affirmative, and *fifty-four* in the negative. The bill was then recommitted, and on its return to the House in an amended form, it passed—not unanimously, sir, but by a vote of *one hundred and twenty to thirty-seven*! The amendments of the House were concurred in by the Senate, and the bill passed both Houses. President Madison withheld his approbation, and returned it to the Senate with his objections. These objections, it is well known, did not arise from any scruples respecting its conformity to the Constitution; on the contrary, sir, he said, "Waiving the question of the constitutional authority of the legislature to establish an incorporated bank, *as being precluded, in my judgment*, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications in different modes of a concurrence of the general will of the nation, the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the Treasury by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans."

The veto of the President did not prevent further efforts to incorporate a bank. On the 6th February, Mr. Barbour, of Virginia, with the leave of the Senate, introduced another bill. It passed that body, but its progress through the House was interrupted and suspended by a great and unexpected event—the treaty of peace with Great Britain. The struggling energies of the friends of the Government relaxed on the reception of the intelligence. Mr. Lowndes moved, in the House, the indefinite postponement of the bill from the Senate—"not" he said "from any hostility to a national bank," but because, "in the fragment of the session that then remained," "Congress could not establish a bank half so eligible or half so durable as they could at a future session." Mr. Forsyth, of Georgia, made an effort to commit the bill, but the House, evidently with great reluctance, sustained the motion to postpone by the close vote of 74 to 73.

6. The next precedent occurred in 1816. Upon the recommendation of Mr. Madison and his Secretary of the Treasury, (Mr. Dallas,) the charter of the second Bank of the United States was passed. The bill originated in the House of Representatives under the fostering care of the honorable Senator from South Carolina, [Mr. CALHOUN,] and, having passed both Houses by decisive majorities, it received the sanction of President Madison on the 10th April, 1816.

7. The bill of 1832 was presented to the Senate by a distinguished Senator from Massachusetts, [Mr. WEBSTER.] Its object was to continue in force the charter of the bank for twenty years. On



its final passage through that body, the vote stood—yeas 28—nays 20. It passed the House of Representatives by a vote of 107 to 85. On the 10th July, 1832, President Jackson returned it with his objections to the Senate.

Such are the precedents which your legislation presents, bearing upon the question of the constitutional power of Congress to incorporate a Bank of the United States; and it is in view of such reiterated affirmations of the power that the honorable Senator from Pennsylvania has declared that, regarding “the repeated attempts to establish a bank *which have failed*, Congress have much oftener decided *against* the power than in its favor.” I may now, sir, venture the assertion that, since the commencement of the Government, the legislative department has never disclaimed the power. I may venture the assertion that no single power, derivable from the Constitution, of the existence of which well-founded doubts have been at any time entertained, has been so firmly established by legislative recognitions as the one we are now considering.

What, then, sir, does this array of accumulated precedents mean? Are they to have no obligatory influence upon the action of the Government? Are we still where we were in 1791, when the question of the power of Congress to create a bank was, for the first time, started? Have we taken no step toward its final determination? Can it be, as the Senator from Virginia has suggested, that, “it is yet an unsettled and open question?” and is it destined forever “to remain so in the public judgment?”

Sir, with all respect for opinions of gentlemen, I am compelled to say that, in *my* opinion, such a doctrine is subversive of great principles closely connected with the durability of the Constitution. If the construction of its doubtful powers can never be established by precedent, those powers *must* continue to be dangerous sources of collision between the departments of the Government, and of agitation of the public mind. You will have no landmarks to guide you, but the few specific powers which are granted in the Constitution. All else is liable to perpetual fluctuation. Nothing is ascertained—nothing settled—except what the Constitution in terms has ascertained and settled; and your Government, instead of being a system of well-adjusted parts, or a system susceptible of adjustment by frequent recognitions of its contested powers, is a mass of loose and floating elements, threatening incessantly its own dissolution.

Sir, such cannot be the true principles of the Constitution of the United States; and, in support of what I say, I appeal to the opinions of men, whose sagacious and wise counsels have in other times exerted a salutary influence over the minds of their countrymen.

In the conclusion of an able official letter on the subject of a national bank, addressed to Mr. Crawford, on the 30th January, 1811, Mr. Secretary Gallatin thus spoke:

“I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state, that the bank charter having, *for a number of years, been acted upon or acquiesced in as if constitutional, by all the constituted authorities of the nation*, and thinking myself the use of the bank to be *at present necessary for the exercise of the legitimate powers of the General Government*, the continuation of a Bank of the United States has not, in the view which I have been able to take of the subject, *appeared to me to be unconstitutional.*”

Mr. Dallas, when at the head of the Treasury Department, was still more explicit. “In making a proposition for the establishment of a national bank,” he said, in a communication to Mr. Eppes, on the 17th of October, 1814:

“I cannot be insensible to the high authority of the names which have appeared in opposition to that measure on constitutional grounds. It would be presumption to conjecture that the sentiments which actuated the opposition have passed away; and yet it would be denying to experience a great practical advantage were we to suppose that a difference of times and circumstances would not produce a corresponding difference in the opinions of the wisest as well as the purest of men. But in the present case, a change of private opinion is not material to the success of the proposition for establishing a national bank. In the administration of human affairs, there must be a period when discussion shall cease, and decision shall become absolute. A diversity of opinion may honorably survive the contest; but, upon the genuine principles of a representative government, the opinion of the majority can alone be carried into action.” “When, therefore, we have marked the existence of a national bank, for a period of twenty years, with all the sanctions of the legislative, executive, and judicial authorities; when we have seen the dissolution of one institution, and heard a loud and continued call for the establishment of another; when, under these circumstances, neither Congress nor the several States have resorted to the power of amendment, can it be deemed a violation of the right of private opinion to consider the constitutionality of a national bank as a question forever settled, and at rest?”

In justice, Mr. President, to the honorable Senator from Pennsylvania, I cannot pass without notice, in this connexion, the strong opinions of a distinguished member of the political party to which he belongs—I mean a late Secretary of the Treasury, Mr. McLane, of Delaware. He was, at the period when those opinions were delivered, deservedly high in the confidence of President Jackson and of his party, as is manifest not only from the position which he held in his cabinet, but from his subsequent appointment to a most important foreign mission. On the 7th December, 1831, when the people of the United States, without regard to party differences, were full of anxiety on the subject of the bank, Mr. McLane transmitted to Congress his annual report on the finances.



After adverting to an ordinance of the Congress of 1781, convened under the articles of confederation, incorporating the Bank of North America, and to the aid afforded by that institution to the colonies in the war of independence, he proceeded to say :

“ The authority of the present Government to create an institution for the same purposes *cannot be less clear*. It has, moreover, *the sanction of the executive, legislative, and judicial authorities, AND OF A MAJORITY OF THE PEOPLE OF THE UNITED STATES, from the organization of the Government to the present time*. If public opinion cannot be considered the infallible expounder, it is among the soundest commentators of the Constitution. It is undoubtedly the wisest guide, and only effective check, to those to whom the administration of the Constitution is confided, *and it is believed that, in free and enlightened States, the harmony, not less than the welfare, of the community is best promoted by receiving as settled those great questions of public policy, in which the constituted authorities have long concurred, and in which they have been sustained by the unequivocal expression of the will of the people.*”

The views of Mr. Madison were presented, at length, in a letter to Mr. Ingersoll, of Pennsylvania, in 1831, containing his reasons for the approval of the charter of 1816. I must content myself with a single extract :

“ The act,” he observed, “ originally establishing the bank, had undergone ample discussions in its passage through the several branches of the Government. It had been carried into execution throughout a period of twenty years, with annual legislative recognitions; in one instance, indeed, with a positive ramification of it into a new State, and with the entire acquiescence of all the local authorities, as well as the nation at large: to all of which may be added a decreasing prospect of any change in the public opinion adverse to the constitutionality of such an institution. A VETO FROM THE EXECUTIVE, UNDER THESE CIRCUMSTANCES, WITH AN ADMISSION OF THE EXPEDIENCY AND ALMOST NECESSITY OF THE MEASURE, WOULD HAVE BEEN A DEFIANCE OF ALL THE OBLIGATIONS DERIVED FROM A COURSE OF PRECEDENTS AMOUNTING TO THE REQUISITE EVIDENCE OF THE NATIONAL JUDGEMENT AND INTENTION.”

The Senator from Pennsylvania, with commendable candor, acknowledged that “ no man holds in higher estimation than he does the memory of Chief Justice Marshall.” The opinion of that illustrious jurist is, therefore, entitled to his respect. In the decision of the case of McCulloch against the State of Maryland—a decision which will “ stand the test of human scrutiny, of talents, and of time”—he thus expressed himself :

“ The first question made in the cause is, have Congress the power to incorporate a bank? It has been truly said that this can scarcely be considered an open question, entirely unprejudiced by the former opinions of the nation respecting it. The principle now contested was introduced at a very early period of our history, has been recognised by many successive Legislatures, and has been acted upon by the judicial department, in cases of peculiar delicacy, as a law of undoubted obligation.

“ It will not be denied that a bold and daring usurpation might be resisted after an acquiescence still longer and more complete than this. But it is conceived that a doubtful question—one on which human reason may pause, and the human judgment be suspended—in the decision of which the great principles of liberty are not concerned, but the respective powers of those who are equally the representatives of the people are to be adjusted, if not put at rest by the practice of the Government, ought to receive a considerable impression from that practice. An exposition of the Constitution deliberately established by legislative acts, on the faith of which an immense property has been advanced, ought not to lightly disregarded.”

But, whatever may be the respect of the honorable gentleman from Pennsylvania for the memory of the late Chief Justice of the United States, I am about to refer to one whose opinions upon this subject will, I flatter myself, have great weight with him—they are the opinions of President Jackson. On more occasions than one that distinguished individual felt himself sustained, in the exercise of some of the strongest measures of his administration, by legislative precedents—by the examples of his predecessors, and by the practice of the Government.

Sir, that highest and most dangerous of all powers of this Government—the executive power of removal from office—I do not say for opinion’s sake, but for *any* cause—where did President Jackson derive it? From the enumerated powers of the Constitution? No, sir, not at all; the Constitution nowhere bestows it. It is then a *constructive* power, and is to be maintained, if maintained at all, by reason and argument. Well, sir, when President Jackson discharged Mr. Duane for his disobedience of an executive command to remove the deposits of the Government from the Bank of the United States, how did he acquit himself before Congress and the nation for the exercise of a power so violent, as under the circumstances, that was admitted to have been? By an appeal to the express terms of the Constitution? No; but “ by the contemporaneous construction of that instrument, and the uniform practice under it.” “ The power of removal,” he said in his protest against the proceedings of the Senate in 1834, “ was a topic of solemn debate in the Congress of 1789, while organizing the administrative departments of the Government; and it was finally decided that the President derived from the Constitution the power of removal, so far as it regards that department for whose acts he is responsible.” “ Here, then,” he added, “ we have the concurrent authority of President Washington, of the Senate and House of Representatives, numbers of whom had taken an active part in the convention which fram-



ed the Constitution, and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself."

Congress decided that the power existed under the Constitution; "*and the act as it passed,*" said President Jackson, "*has always been considered as a full expression of the sense of the Legislature on this important part of the American Constitution.*"

Again, sir, as to the tariff. The Constitution has not, in terms, conferred upon Congress the power to impose duties on imports for the protection of our own manufactures; and the existence of the power has long been disputed. In his second annual message President Jackson affirms it to exist; and having, by a train of irresistible arguments, satisfied his own mind upon the subject, he said:

"In this conclusion *I am confirmed*, as well by the opinions of President Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the Constitution, *as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people.*"

A still stronger illustration of the views of President Jackson occurs in his message of 1830, containing his objections to the Maysville road bill. The power of Congress to make internal improvements, like those which have been alluded to, was a contested power. He admitted its existence, in cases where the works to be constructed were national, not local, in their character. Having referred, in the progress of his argument, to examples of its exercise by preceding administrations of the Government, and to the "*admonitory proof of the force of implication*" which those examples furnished; and having avowed that it was "*the duty of all to look to that sacred instrument (the Constitution) instead of the statute-book,*" he was of opinion, nevertheless, that

"The public good, and the nature of our political institutions, required that individual differences should yield to a *well-settled acquiescence of the proper and confederated authorities* in particular constructions of the Constitution *on doubtful points*. Not to concede this much," he declared, "*to the spirit of our institutions, would impair their stability, AND DEFEAT THE OBJECTS OF THE CONSTITUTION.*"

It remains for me to add to this mass of concurrent testimony, favorable to the efficacy of legislative precedents, the unequivocal declaration, almost testamentary of that distinguished man who has recently descended with so many regrets to the grave—"I consider it," said President Harrison in his inaugural speech, "*the right and privilege of the people to decide disputed points of the Constitution arising from the general grant of power to Congress to carry into effect the powers expressly given; and I believe with Mr. Madison that 'repeated recognitions, under varied circumstances, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications in different modes of the concurrence of the general will of the nation, afford to the President sufficient authority for his considering such disputed point as settled.'*"

I have now, I trust, Mr. President, sufficiently maintained the position, which I ventured to assume, that Congress have never, in any instance, refused to exercise the power to incorporate a Bank of the United States on constitutional grounds. In the review which I have attempted of the legislative proceedings relating to that institution, I am unconscious of having omitted any thing material to the issue between the Senators from Pennsylvania and Virginia and myself. The result is that the authority of precedents, legislative and judicial, is exclusively on one side; and concludes the question of constitutional power, if, indeed, it can be concluded, in that way.

But there is another source of authority to which I propose to call your attention. It is the authority of the great men by whom that power has been solemnly affirmed and maintained. When we hear it proclaimed, from a distinguished source on the opposite side of this chamber, that the passage of this bill will be the announcement of a revolution—nay, sir, that the revolution has actually commenced—I desire to present to the Senate, and to the American people, the names of the men by the force of whose example that revolution is to be effected. If the temple of our liberties is so soon to be consumed, and if a Bank of the United States is the torch to light the conflagration, I desire to present to the Senate, and the American people, the names of the men by whom that torch has been enkindled.

The argument, Mr. President, I am about to offer on this branch of the discussion would be incomplete, if it were not sustained by the authority of that great mind which left its ineffaceable impress on the American Revolution, on the Constitution of the Union, and on the Administration of your Government during the most difficult conjuncture of your affairs. You cannot, of course, mistake my allusion to the first President of the United States. Sir, when General Washington entered the Executive Department in 1789, he was fresh from the Convention that formed the Constitution, whose powers he was about to administer. The sun and centre of the political system, he was soon surrounded by other luminaries, whose combined effulgence illuminated the continent. At the head of the distinguished men who composed his cabinet, and gave assurance to the country of a secure and faithful administration of the Government, was Thomas Jefferson. He had been the minister to France in 1787, and was not therefore a member of the Federal Convention. But he was the author of the declaration that severed the colonies from the parent country. He had pledged his life and fortune and honor in support of it. He was a star of the first magnitude in that bright constellation of heroes and statesmen that adorned the period of your revolutionary struggle. But it is very well known that he was not satisfied with the Federal Constitution. It is well known that, at the time it was adopted and afterwards, he expressed his disapprobation of it, as well for what it did, as for what it did *not* contain. One of his prominent



characteristics was jealousy—jealousy of the absorbing influence of the Government—jealousy of the exercise of its constructive powers—as if it were not plainly impracticable that every power necessary and proper for its due administration *could*, in the nature of things, be specifically granted. Sir, I mean no disrespect to the character of Mr. Jefferson when I say that, in my judgment, some of his opinions of constitutional power cannot be reconciled. He opposed, in 1791, the establishment of the first Bank of the United States, because he could find no warrant for it in the Constitution; and yet he authorized the negotiation and ratified the treaty for the purchase of Louisiana. He disclaimed the national authority over the subject of internal improvement, and sanctioned an act for the construction of the Cumberland road. He denied the power of Congress to impose duties on imports for any other object than revenue, and yet, under the power to regulate commerce with foreign nations, he recommended an embargo, at a time of profound peace, suspending commerce for a period indefinite, and therefore at the option of Congress, unlimited in duration. Such were some of his peculiar views. I am not about to condemn them. His opinion on the bank, in 1791, was in opposition to the opinions of the greater number of those by whom the Constitution was formed, the greater number of those by whom it has been administered, and I think I may safely add, the greater number of the people of the United States. If, at a subsequent period of his life, he did not change his opinion on the question of its constitutionality; there are reasons for believing that he concurred in considering that question settled by the action of Congress, the sanction of the State Governments, the acquiescence of the people, and the decisions of the judicial department.

Next to him in the cabinet was his compeer and rival, Alexander Hamilton; than whom, of all the statesmen to whom the Revolution gave birth, none have been more violently assailed. It is not my purpose to eulogize him. Educated in the political faith of his great antagonist, I can scarcely be regarded too partial to his original views of constitutional government. But I am not *afraid* to do him justice. I will not shrink, on this or any occasion, from acknowledging the obligations which, as an American citizen, I owe to him for his public services. Sir, by universal concession of friends and foes, he was a great and shining light. Commencing his career before he had reached the age of maturity, he threw himself with the ardor and impetuosity of youth into the contest for American liberty. After the close of the Revolution, he was associated with the leading political events of the country. As much to him as to any single individual, you are indebted for the triumph of that Constitution, which is your glory and your strength. It cannot be denied that his early impressions of the best model of a free government were derived from the English Constitution; but, whatever may have been his predilections for other forms, no sooner was the Constitution of the United States adopted by the Convention, than he became the most prominent, the most ardent, I was about to say, the ablest of its advocates. He affixed his signature to that instrument in the Convention that formed it. He defended it before the People, to whom it was referred for ratification, with a power of argument and a fervency of zeal that outstripped all competition, and won for him golden opinions from every friend of good government. Of the manner in which he succeeded, Mr. Jefferson himself shall speak. In a letter to Mr. Madison, of the 18th November, 1788, he thus alludes to the essays of Publius on the Constitution, which was the joint production of Mr. Hamilton, Mr. Madison, and Mr. Jay:

“With respect to the *Federalist*, the three authors had been named to me. I read it with care, pleasure, and improvement, and was satisfied that there was nothing in it by one of those hands, and not a great deal by a second. It does the highest honor to the third, *as being in my opinion the best commentary on the principles of Government which was ever written.*”

Sir, this is high commendation—*Laudari a viro laudato*. Mr. Hamilton was then but thirty years of age. In 1789, he was called by Washington to the responsible post of Secretary of the Treasury. His efforts to regulate the finances, and establish the public credit, were as unremitted as they were successful. He reduced the former to a system, and placed the latter on a permanent basis. One of his leading measures for the accomplishment of those objects, was a national bank. His argument in support of it has never been satisfactorily answered.

The remaining members of the cabinet were men of high pretensions. General Knox of the army of the revolution, was appointed to the Department of War, and Edmund Randolph, of Virginia, a gentleman of acknowledged professional eminence—who had belonged to the Convention that formed the Constitution, and to the Virginia Convention that ratified it—became the Attorney General.

In 1791, Congress took up the subject of the finances and the currency, involved in the proposition of the Secretary of the Treasury for the establishment of a national bank. That venerable assembly was composed, in part, of men who had been in the councils of the Confederation. Pending the Revolution, the necessity of such an institution, as a financial instrument, had been felt and acknowledged. The year 1780 was one of extreme depression in the affairs of the States. The Government was without money and without credit. The army, for want of the means of subsistence, was on the verge of dissolution. As a temporary expedient, a bank was established by subscription, for the purpose of supplying the army with provisions, which continued for one year only. In May, 1781, Congress, upon the recommendation of Robert Morris, who had been appointed to the office of Superintendent of Finance, adopted a resolution, “approving the plan of a national bank in these United States;” and, on the 31st December following, they passed “an ordinance to incorporate the subscribers to the Bank of North America.” The effect of the measure was as instantaneous as it was efficient. Private and public credit revived. The financial operations of the Government were strengthened and facilitated. The cause of Independence received a fresh impulse. When, therefore, under the new order of things, produced by a change in the form of the Constitution, a similar measure was proposed, it had the singular



advantage of a salutary experience in its behalf. But that was not its only advantage. In the Congress of 1791 were many members who belonged to the Convention of 1787. There were in the Senate, John Langdon, of New Hampshire; Rufus King and Caleb Strong, of Massachusetts; Oliver Ellsworth and William S. Johnson, of Connecticut; Robert Morris, of Pennsylvania; Richard Bassett and George Read, of Delaware; Pierce Butler, of South Carolina; and William Few, of Georgia: And, in the House of Representatives, Nicholas Gilman, of New Hampshire; Elbridge Gerry, of Massachusetts; Roger Sherman of Connecticut; George Clymer and Thomas Fitzsimmons, of Pennsylvania; Abraham Baldwin, of Georgia; Daniel Carroll, of Maryland; James Madison, of Virginia; and Hugh Williamson, of North Carolina. As well upon the expediency of establishing a bank, as upon the constitutional power of Congress, they were divided in opinion; but *two-thirds* of their number declared, on their oaths, that they believed the power to exist, and voted for the bank. The deliberations of the Senate were not then conducted in the same public manner that they now are. The journal, however, sheds abundant light upon the subject.

The bill to incorporate the bank was first reported in the Senate. The yeas and nays were not taken on its final passage. The test question seems to have been on a motion to strike out that section which provided, that no other bank should be established, by any future law of Congress, during the continuance of the corporation. The Senate refused, by a large majority, to strike out—Messrs. Butler and Few voting in the affirmative; and Messrs. Bassett, Ellsworth, Johnson, King, Langdon, Morris, Read, and Strong, in the negative. The House decided the main question by a majority of nineteen—yeas 39, nays 20—Messrs. Clymer, Fitzsimmons, Gilman, Gerry, and Roger Sherman, in the affirmative; and Messrs. Baldwin, Carroll, Madison, and Williamson, in the negative.

The bill passed both Houses, and was presented to President Washington for his concurrence. I need not remind you, sir, that he was President of the Convention that formed the Constitution. He consulted his cabinet, and found them equally divided—Mr. Hamilton and General Knox affirming the constitutionality, and Mr. Jefferson and Mr. Randolph denying it. He required their opinions in writing; and, after the most candid and mature deliberation, he approved the bill, and it became a law of the land.

Thus, then, sir, it appears, that of the twenty-two members of the Convention of 1787—including General Washington, Mr. Hamilton, and Mr. Randolph, who gave their opinions on the bank charter of 1791—fifteen admitted the power of Congress, under the Constitution, to pass it, and seven were opposed to its passage. Such is a brief legislative history of the first Bank of the United States, and such the preponderance of the members of the Federal Convention in favor of the charter.

In March, 1801, Mr. Jefferson went into the office of President. We have witnessed his opposition to the creation of the bank. On the 23d of March, 1804, he approved an act of Congress authorizing that institution “to establish offices of discount and deposite in any part of the territories or dependencies of the United States, in the manner and on the terms prescribed” by the charter.

In February, 1807, Congress passed “an act to punish frauds committed on the Bank of the United States.” It declared the forging or counterfeiting the notes or checks of the bank to be felony, and inflicted a punishment of not less than three, nor more than ten, years imprisonment for a violation of its provisions. Mr. Jefferson concurred in the passage of the law.

Sir, it is difficult to perceive how either of these measures could have received his signature, if he retained the opinion that the bank was unconstitutional. How stands the argument in respect to the last-mentioned act? Congress, in violation of its constitutional authority, charters a bank, with the power of issuing notes of circulation. To prevent the commission of frauds upon the bank, by the counterfeiting of its notes, a law, heavily penal in its character, is interposed. Its effect may be to deprive an American citizen of his liberty for a period of ten years. It is sent to the President of the United States for his approbation. He sanctions it, believing the charter of the bank, from which the counterfeited notes emanate, to be unconstitutional and void. Can it be, sir, that the chief executive officer of the Government, whose high duty it is to protect the constituent body from unjust, no less than unconstitutional, legislation, could, with such convictions, bestow his approbation upon such an act? It was stated by a distinguished representative from Kentucky, [Mr. McKee,] in the debate upon the bank of 1816, that a citizen of that State had been in imprisonment under the law of 1807; that application had been made to Mr. Jefferson to pardon the offence; and that the pardon was refused; and yet we have it from Mr. Jefferson himself, that, when he came into the executive office, he released from prison, without trial, those who had become obnoxious to the alien and sedition law, upon the ground that it was unconstitutional, and therefore *no law*.

Mr. President, the charter of the first bank expired in 1811. Two years before that event took place—in March, 1808—the stockholders presented a memorial to Congress for a renewal of the charter. And now, sir, at that period, from 1808 to 1811, who were its prominent friends? The memorial was offered in the House of Representatives by a member from New York, and, by order of the House, was referred to Mr. Gallatin, then at the head of the Treasury Department, to report his opinion on the subject to the next session.

Of so distinguished a financier as Mr. Gallatin, it is unnecessary for me to speak at large. Associated in the councils—identified with the measures—no man stood higher in the confidence of Mr. Jefferson. He was not only his political associate—he was his intimate personal friend. Strongly opposed to the principles of the Federal party, he was a plain, unadulterated Democratic Republican. His political faith was wholly unimpeachable. No Secretary of the Treasury has united to a greater extent the confidence of the republican party in his talents, his integrity, his patriotism, and his attachment to the principles that brought that party into power.



On the 3d of March, 1809, Mr. Jefferson's term of service expired. On the second of that month, Mr. Gallatin made his report to the House of Representatives, communicating, in compliance with their order, his opinion concerning the bank. I have already shown you, sir, that he admitted it to be constitutional. It remains to show what he thought of its expediency.

"The advantages derived by the Government from the bank may be reduced," he said, "to the following heads: 1. *Safe-keeping of the public moneys.* This applies not only to moneys already in the Treasury, but also to those in the hands of the principal collectors, of the Commissioners of Loans, and of several other officers, and affords one of the best securities against delinquencies. 2. *Transmission of public moneys:* As the collection will always, in various quarters of the extensive territory of the Union, exceed or fall short of the expenditures in the same places, a perpetual transmission of money or purchase of remittances at the risk and expense of the United States, would become necessary in order to meet those demands; but this is done by the bank at its own risk and expense, for every place where one of its branches is established, which embraces all payments of importance. 3. *Collection of the revenue.* The punctuality of payments introduced by the banking system, and the facilities afforded by the bank to the importers indebted for revenue bonds, are among the causes which have enabled the United States to collect with so great facility, and so few losses, the large revenue derived from the impost. 4. *Loans:*" and he concludes the whole by stating, "that the bank itself would form an additional bond of common interest and union amongst the several States."

It is not unworthy of consideration that, at the date of this report, Mr. Gallatin was a member of Mr. Jefferson's cabinet. If the latter was still opposed to a bank on constitutional grounds, the spectacle was exhibited of the financial officer of the Administration recommending to Congress a great measure of national policy, which that body was forbidden to pass, and which the President, if it had been presented to him for his signature, could not have approved. Sir, it is scarcely probable that, during the interval of a twelve-month, from March, 1808, when the memorial of the stockholders was referred to Mr. Gallatin, to the same month, in 1809, the President of the United States should not have been consulted by his minister of finance on so important a question as the one submitted to him. I am not conversant with the movements of cabinets, but it is difficult to suppose that Mr. Jefferson was profoundly ignorant of the intention of his Secretary to recommend to Congress the re-establishment of the bank. It is still more difficult to suppose, if Mr. Jefferson regarded the bank as unconstitutional, or, in the language of the Senator from South Carolina, [Mr. CALHOUN,] incompatible with public liberty, that he should have been accessory to a proposition so dangerous and alarming as that contained in the Secretary's report.

But I will not press this point. I pass on to other names, and come at once to the year 1811.

In adverting to those, Mr. President, who at that period advocated the renewal of the bank, as they are exhibited on the list of recorded votes, the eye falls upon the name of a distinguished man, who, although a leading member of the Federal party, was, nevertheless, conspicuous for his public spirit and his entire disregard of party ties, when the interests and the honor of his country were at stake. I mean of course, sir, James A. Bayard, of Delaware. He was not only a patriot, he was a great constitutional lawyer; and whether you consider his talents, his learning, his integrity, or his unwavering love of country, there are few men, of any party, whose opinions on constitutional questions are of higher authority. I need not add that he voted for the bank in 1811.

Equal to him in patriotism, in intellect, and in the commanding qualities of a statesman, but of adverse political principles, among the foremost of the active supporters of the bank, was the great southern Senator, William H. Crawford. At the mention of his name, Mr. President, it would be no matter of surprise if some gentlemen on the other side of this Hall were to recoil from the developments to which his opinions may give rise. If there was any one politician whose career was distinguished by his advocacy of the bank, and whose position was universally understood, Mr. Crawford was the man. Yet, sir, no fact is more thoroughly interwoven with the history of parties in this country, than that the late President, Mr. Van Buren, was his strong friend in his canvass for the Presidency in 1824. It cannot, I believe, be denied, that he was for Mr. Crawford first, for Mr. Crawford last, and for no other individual but Mr. Crawford, until the last hope of his election was abandoned.

Sir, it is perfectly well known, that the opinion of Mr. Crawford had undergone no change on the bank question. In the revolutions of parties he had not faltered. He stood in 1824 where he stood so proudly in 1811, when, following the dictates of his own judgment, he separated himself for a time from the party with which he was associated, and voted with the Federal party for the bank. He had given by this movement the highest possible proof of the earnestness of his convictions of the great importance of the subject. I said that he had not changed his ground, and, in support of the declaration, I take leave to read an extract from a letter written by him to Mr. Ingersoll, in 1831.

"The opinion which I formed of the Bank of the United States when I was a member of the Senate, was the result of a careful examination of the Constitution of the United States, made without any pre-conceived opinions. That opinion is recorded in two speeches which I made in the Senate in 1811. Since that time I have had no occasion of reviewing the question. *My opinion remains unaltered.*

"I was Secretary of the Treasury more than eight years, and during that time I had ample evidence of the great utility of a Bank of the United States, in managing the fiscal concerns of the Union. I am persuaded that no man, whatever his pre-conceived opinion may be, can preside over the Treasury a year, without being deeply impressed with the expediency of the United States Bank in conducting the finances of the Union.

"The provision of the Constitution which gives Congress the power to pass all laws, which may be necessary and proper to carry into effect the enumerated powers, gives Congress the right to pass the



‘ Bank bill, unless a law *most proper* to carry into effect the power to collect and distribute revenue *should be excluded* by that provision.’

It will not do to say, Mr. President, that the bank question was not as important in 1824, as it now is, or has ever been. If Mr. Crawford, instead of Mr. Adams, had administered the Government, and administered it, as his friends believed he would have done, to the satisfaction of the nation, his second term of service would have covered the whole period of the agitation of the question of the renewal of the charter. President Jackson alluded to it in his message to Congress in 1829; and in 1832, during the last year of his first Presidential term, the great battle for the recharter was fought in these Halls. If Mr. Crawford had been elected, the strong probability is, that the battle would have been fought during his Administration. And how fought, sir? Fought triumphantly for the bank—fought under the banner of Mr. Crawford, and with his powerful influence in its support. If, I repeat, with the aid of Mr. Van Buren, Mr. Crawford had become the President in 1824, we should not be debating the subject; a Bank of the United States would now be in existence, and the “*mater monstorum*, the mother of monsters” of the Senator from Missouri, would not be a mere figment of the imagination. Sir, what are the facts? What do your Journals show? The bank bill of 1832, passed the Senate, as I have once before observed, by the decisive vote of twenty-eight to twenty. It passed the House of Representatives—that body which comes fresh from the hands of the people—that body which ought to be, and I trust is, the mirror of the sentiments of the people of the United States—by a triumphant majority—a majority such as is seldom witnessed on any great national question—a majority which, in some instances, carried whole States along with it. For let me tell the honorable Senator from Pennsylvania, what, I am sure, will give him no pain, that it passed the two Houses of Congress with the votes of both the Senators, and of twenty-four out of the twenty-five Representatives from the democratic State of Pennsylvania, who were present and voted! Now who doubts—who for one moment doubts—that if Mr. Crawford had been the President, he would have executed *the will of the people* as expressed through their Representatives, and approved the bank bill of 1832? Had such been the result, Mr. Van Buren with all his devotion to democracy, with all his horror of the bank, would have been an *accessary before the fact* to the re-establishment of that institution, and the monster, with *his aid*, would at this moment be devouring the liberties of this country!

But I hasten to a more recent period.

Mr. President, the power of party crushed the bank in 1811. Never did the Republican party commit a more signal or a more grievous error, and most grievously did they repent of it. Sir, what followed? Two years had scarcely elapsed, before the same party suddenly shifted their position. The measure which in 1811 was unconstitutional and inexpedient, became in 1814 both constitutional and expedient. The war of 1812 had intervened. It was declared under the auspices of the national approbation and support. It was prosecuted under the heavy embarrassments of a bankrupt Treasury and a prostrate currency. And now, sir, during the progress of the war, what was the condition of your affairs? Your gallant navy covered itself with glory. But your army? Sir, I am sure I shall be pardoned, if I spare you the painful rehearsal of its sufferings and its defeats. The fleets of the enemy penetrated your bays and hovered upon your sea-board, and menaced your cities. Your frontier was invaded, and the unprotected inhabitants driven into the interior.—Your Capitol fell into the hands of the enemy.—The national councils were agitated and enfeebled by a great and influential party opposed to the leading measures of the Administration.—States were in hostile array against the Government of the Union, and the Union itself was in fearful danger.—The whole political firmament was “hung with black.”—Bad men threatened and good men trembled for the safety of the Constitution. “To make confusion worse compounded,” the credit of the Government was gone; and the country was suffering in all the departments of its commerce and its industry. The breath of party, like the pestilent breath of the Sirocco, had breathed upon its fair and fertile fields, and it was a desert. A sound and uniform currency is the life-blood of the Government—that had become poisoned at its very fountain, and a gigantic nation was almost prostrate in the dust. Such, sir, without exaggeration, was your deplorable condition pending the war of 1812. Fortunately, most fortunately for the Government, *the man of the Constitution was at its head*. Mr. Madison, as has been seen, had opposed the bank of 1791. He did not believe it, then, to be necessary and proper to carry into effect any of the enumerated powers of the Constitution. He thought the national finances could be successfully conducted without it. But the necessities of the war had satisfied him that he was mistaken. He renounced his opinion and changed his ground. With him changed, almost to a man, the party which had voted down the bank in 1811: Seldom, in the history of parties, has there been so sudden, so thorough, so violent a revolution of public sentiment, and of the conduct of public men consequent from it. The Federal party changed their ground also. The friends of the bank in 1811 were its opponents in 1816; its former enemies became its warm friends.

Among the foremost in the ranks of the Republican party of that day, in talent, in zeal, in knowledge of the causes of the public embarrassments, in sympathy for the wants of the Government and the condition of the people, stood the then master-spirit of the South in the House of Representatives—the honorable Senator from South Carolina, [Mr. CALHOUN.] Seldom has it been the fortune of any statesman to occupy an eminence so enviable and commanding. Throughout this extended country—in all the departments of its labor and trade—in every State and Territory and neighborhood—wherever a depreciated paper dollar circulated or a bank had stopped specie payments—everywhere the services of the honorable gentleman were requited by the well-earned plaudits of his countrymen.

[Mr. CALHOUN rose, and said that he was opposed to the bank in 1814 and '15.]



I speak now, Mr. Morehead continued, of the bank of 1816, and I am about to refer to a celebrated argument of the Senator from South Carolina, delivered during that year in the House of Representatives—not, however, with the view of placing him in an inconsistent and contradictory attitude before the country. If the honorable Senator has thought proper to change his position; if, believing the bank charter constitutional in 1816, he believes it unconstitutional *now*; if, entertaining the opinion *then* that it was the life-preserving measure of the Government, he deems it *now* monstrous and revolutionary and destructive of the public liberty—why, sir, it is no business of mine or of the Senate. I have nothing to do with the motives of the Senator's public conduct, but I must be allowed to rely on the authority of his name, and to advert to an argument which swayed the mind of the nation twenty-five years ago, in the hope that the same consequence may result from it again.

On the occasion of taking up the bank bill in Committee of the Whole in February, 1816, the Senator from South Carolina opened the debate, with an argument of distinguished ability. He proposed to discuss general principles only, without reference to the details of the bill. "The constitutional question had already been so freely and frequently discussed, that all had made up their mind on it;" and that also he declined to consider. "As to the question whether a national bank would be favorable to the administration of the finances of the Government, *it was one on which there was so little doubt, that gentlemen would excuse him, if he did not enter into it.*" "Leaving these questions, he proposed to examine the cause and state of the disorders of the currency, and whether it was in the power of Congress, by establishing a national bank, to remove those disorders."

"As to the state of the currency of the nation," the Senator proceeded to remark, "*that it was extremely depreciated, and in degrees varying according to the different sections of the country;*" that it was "a stain on the public and private credit, and injurious to the morals of the community;" that it "*was opposed to the principles of the Federal Constitution;*" that "the power was given to Congress by that instrument, *in express terms, to regulate the currency of the United States;*" that "in point of fact, that power was not in their hands," but was "exercised by banking institutions, no longer responsible for the correctness with which they managed it;" that "in lieu of gold and silver they had a paper medium, unequally but generally depreciated, which affects," he said "the trade and industry of the nation; which paralyzes the national arm; which sullies the faith, both public and private, of the United States;" "the right," he continued, "of making money—an attribute of sovereign power—a sacred and important right—was exercised by two hundred and sixty banks, scattered over every part of the United States, not responsible to any power whatever for their issues of paper."

He next alluded to the *excess* of those paper issues—that "there were not in the vaults of all the banks, more than fifteen millions of specie, with a capital amounting to about eighty-two millions of dollars; and "this," he argued, "was the true and only cause of the depreciation of the currency." He then turned his attention to "the *manner* in which that excess had been produced—it was intimately connected with the suspension of specie payments; and advantage had been taken of that suspension to issue still greater floods of it." Besides, he said, "the banks had undertaken to do a new business; to make loans to the Government, not as brokers, but as stockholders; a practice wholly inconsistent with the system of specie payments." He contended, "that the existing state of things would not cure itself—that it rested with Congress to make them return to specie payments;" and "that introduced the subject of the national bank."

"A national bank," he said, "paying specie itself, would have a tendency to make specie payments general, as well by its influence as its example." Such an institution, with a capital of thirty-five millions of dollars, "with the aid of the State banks that were ready to pay specie, would produce a powerful effect all over the Union." "The restoration of specie payments would remove the embarrassments on the industry of the country, and the stains from its private and public faith." "It remained to see whether the House, without whose aid it was in vain to expect success in the object, would have the fortitude to apply the remedy."

Such, Mr. President, was the views of the Senator from South Carolina in 1816; such his account of the state of the currency; such his opinion of the efficacy of a bank as a remedy for the national embarrassments. I shall not stop to compare the picture drawn by him with the present deplorable condition of the circulating medium. I need not inquire to what extent your "right of making money—an attribute of sovereign power—a sacred and important right," is *now* exercised—not by two hundred and sixty, but—by *nine hundred banks*, "scattered over every part of the United States, not responsible to any power whatever for their issues of paper," nor need I inquire to what extent this state of things, "affects the trade of the nation;" "paralyzes the national arm;" and "sullies the faith, public and private, of the United States." I leave the comparison to the Senate and the country. Sir, after the lapse of nearly twenty years, and after ample opportunity had been afforded to test the accuracy of his views in 1816, what in 1834 were the opinions of the distinguished Senator? Had the bank failed in any of the purposes for which it was created? Had it disappointed the expectations of the people, or his expectations? No; it had indeed been *revolutionary*: but it revolutionized the currency. It had been sadly destructive of *liberty*; but it was the liberty of State banking corporations to flood the country with depreciated paper, and embarrass all the operations of commerce and trade. It is proper, however, that the Senator should speak for himself. In his speech on the removal of the deposits on the 13th January, 1834, the honorable gentleman said:

"I am no partisan of the bank. I am connected with it in no way by moneyed or political ties. I might say, with truth, that the bank owes as much to me as to any other individual in the country, and I might even add, that, had it not been for my efforts, it would not have been chartered."



"It is said that the bank had no agency, at least no efficient agency, in the restoration of specie payments in 1817; and that it had failed to furnish the country with a uniform and sound currency, as had been promised at its creation. Both of these allegations I pronounce to be without just foundation. To enter into a minute examination of them would carry me too far from the subject; and I must content myself with saying, that, having been on the political stage, without interruption, from that day to this—having been an attentive observer of the question of the currency throughout the whole period—the bank has been an *indispensable agent* in the restoration of specie payments; that, without it, the restoration could not have been effected, short of an utter prostration of all the moneyed institutions of the country, and an entire depreciation of bank paper; and that it has not only restored specie payments, but has given a currency far more uniform, between the extremes of the country, than was anticipated or even dreamed of at the time of its creation."

Having thus shown the prominent part taken by the Senator from South Carolina in the establishment of the first Bank of the United States, allow me next to inquire who his associates were in that great political movement. Who were the men, so utterly, regardless of the public welfare, or so ignorant of the powers of the Constitution, as to unite in the adoption of a measure, which is now denounced as pregnant with danger to the liberties of the people? Who were they? Why, sir, Mr. LOWNDES, of South Carolina, the able and accomplished colleague of the Senator from that State; Mr. CUTHBERT and Mr. FORSYTH, of Georgia; the honorable Senator from Alabama, [Mr. KING,] then a member of the House from North Carolina; Mr. GROSVENOR, of New York; Mr. INGHAM, of Pennsylvania; Mr. CLARK and Mr. MCKEE, of Kentucky; Mr. PINKNEY, of Maryland; Mr. SOUTHARD, of New Jersey and Mr. ROBERTSON, of Louisiana. These were some of the men, who, knowing not what they did, engaged in the work of sapping the foundations of the Constitution, and therewith the pillars of the Government under which we live! Sir, the present advocates of the bank may safely, quite safely, it occurs to me, with such examples before them, commit themselves to the judgment of posterity and of mankind.

The bill received in the Senate the valuable assistance of such men as JAMES BARBOUR, of Virginia; WILLIAM T. BARRY, of Kentucky; JEREMIAH MORROW, of Ohio; and of every member, I believe except two, of the Republican party. It passed accordingly, and was approved by President Madison. On the 1st of January, 1817, the bank went into operation. On the first of July thereafter, the principal State banks resumed the payment of gold and silver for their notes. In a few years the nation rose from the humiliating condition in which a system of State banks and a deranged currency had placed it, and re-commenced its march to wealth and greatness. Beyond any experience of our own—beyond the experience of any other people—its resources were developed—its energies strengthened—its magnificent proportions expanded and matured. If you were to point to the period of your most healthful and exuberant prosperity, I cannot, I think, be mistaken in supposing that you would select the last ten years of the administration of the late national bank. Well, sir, as the time approached when its charter would expire, the question of rechartering it arose again. We have seen who its advocates were in 1791, in 1811, in 1816. Who were *they* in 1832? Sir, South Carolina again took the lead in the person of one of her most distinguished sons. Seldom has a more luminous document issued from the Hall of this Capitol than the report of Mr. McDUFFIE in 1830. Commensurately with the limits of the Union, it was circulated and read with an avidity that was wholly without parallel; and little doubt can be entertained, that it prepared the way for that decisive expression of public opinion, which occurred on the final passage of the bank bill through both Houses of Congress in 1832; in the accomplishment of which event, Mr. McDUFFIE acted so able and so conspicuous a part.

The bank part of the message of the President in 1830 was referred in the Senate to the Committee of Finance, at the head of which was the venerable Senator from Maryland, [General SAMUEL SMITH.] He was a democrat, as my friend from Virginia would say, of the "most straightest sect." He was a merchant, I believe, sir, of large and accurate experience of the commercial affairs of this country. He was then a leading member of the Jackson party in the Senate, as Mr. McDUFFIE was in the other House. He had voted against the bank in 1811. In his report to the Senate, he declared the opinion of the committee to be, that "the country was in the enjoyment of a uniform currency, not only sound and uniform in itself, and perfectly adapted to all the purposes of the Government and the community but more sound and uniform than that possessed by any other country." He stated that "the Government had, during the ten years preceding the 1st January, 1830, received from the collectors of the revenue, in every part of this widely-extended country, more than two hundred and thirty millions of dollars;" that "that immense sum, through the agency of the bank, had been disbursed at other points many thousand miles distant from the places where it was collected, and yet that it had been so collected and distributed, without the loss, as far as the committee could learn, of a single dollar, and without the expense of a single dollar to the Government;" and the report concluded with an expression of opinion, that it was "prudent to abstain from all legislation—to abide the practical good which the country enjoyed, and to put nothing to hazard by doubtful experiments." When the question of the renewal of the charter of the bank came up in 1832, the Senator from Maryland recorded his vote in the affirmative. Associated with him in the effort that was at that time made to save the currency from derangement, the Government from debt, and the people from the pressure they now endure, were some of the most enlightened statesmen of the present day. I am not about to enumerate them.

But, while it is not my wish to abuse the patience of the Senate, I trust I may be permitted to refer to an additional source of authority on this important subject—I mean that of the State Governments. There are few States of this Union that have not, at some period or other of the existence of the bank, indicated their concurrence in the constitutionality of the charter. I believe it was the honorable gen-



man from Mississippi [Mr. WALKER] who alluded to the recent avowal by the Legislature of New Hampshire of a settled purpose to nullify the charter of this bank. New Hampshire, we are informed, threatens resistance to a law of the United States! Sir, New Hampshire, is estopped from the nullification of this charter by her own assertion of its constitutionality. I am enabled to state, on the authority of a pamphlet with which I have been furnished by a friend, that, in June, 1821, a resolution passed the House of Representatives of that State, *by a vote of one hundred and seventy-two to nine*, declaring "that the Congress of the United States have, by the Constitution, power to establish a bank with offices of discount and deposit in the several States, as is done by the act establishing the Bank of the United States; and that the exercise of this power is necessary for the due administration of the financial concerns of the United States." This was no party resolution. It was passed at a period the most propitious for the calm and dispassionate consideration of the subject to which it refers. It was passed during the administration of Mr. Monroe, when the old land-marks of party had been overthrown, when the people of the United States were *one* people, and when great measures were discussed and decided with exclusive reference to the public good. *Such* a precedent cannot be disregarded. But New Hampshire was not the only State, in those halcyon days of party oblivion, to declare her opinion that the bank was constitutional. On the 11th of December, 1821, a special committee of the Legislature of South Carolina, to whom was referred a resolution of the Legislature of Pennsylvania, proposing an amendment to the Constitution of the United States, that "Congress should make no laws to erect or incorporate a bank or other moneyed institution, except within the District of Columbia," reported a resolution declining the concurrence of the Legislature of South Carolina in the proposed amendment. The preamble contained these words:

"Your committee are unanimously of opinion that, as Congress is constitutionally invested with the right to incorporate a bank, it would be unwise and impolitic to restrict its operations within such narrow limits as the District of Columbia. They apprehend no danger from the exercise of the powers which the people of the United States have confided to Congress, but believe that, in the exercise of these powers, that body will render themselves subservient to the great purposes of our national compact."

The House, on the same day, agreed to the report; and, on the day following, the Senate concurred. Nor has Pennsylvania been chary of her opinions concerning the bank. On the 6th of June, 1832, it was resolved by her General Assembly

"That, connected as the prosperity of agriculture and manufactures is with the successful financial operations and sound currency of the country, we view the speedy rechartering of the Bank of the United States, with such alterations as may secure the rights of the States, if any be necessary, as of vital importance to the public welfare."

But it is time, Mr. President, that I should relieve you from the fatigue of listening to me. I am endeavoring to prove that the power of Congress to establish a national bank has been confirmed by a succession of uninterrupted precedents which ought not now to be shaken, and that the charter of the proposed bank is conformable to the policy of the nation during every period of its exemption from party record and strife. The slightest examination will show that its principles are those of the charters of 1791 and 1816; and these the Senator from South Carolina [Mr. CALHOUN] has declared to be revolutionary. Sir, what are we to understand to be the meaning of this declaration? Is it meant that this bill contains such an assertion of lawless, arbitrary, and unconstitutional power as to justify resistance by force? Are we to understand that a charter, such as has been upon your statute-book for forty years—a charter which will receive, if it become a law, all the constitutional sanctions of your national legislation—will be met and repelled as *no* law? Revolutionary! Sir, before the Senator from South Carolina repeats that declaration, let him blot from the national records the most enduring specimens of his patriotism—the proudest achievement of his public life. Let him tear from his brow the triumphal wreath, with which a grateful country entwined it for his efforts in the great struggle for the restoration of the currency in 1816. Let him disclaim the companionship of the patriots and statesmen of that day—of MADISON, MONROE, GALLATIN, LOWNDES, PINKNEY, FORSYTH—men who have been characterized by his eloquent and distinguished friend, [Mr. McDUFFIE,] as composing an assemblage "of higher talent and purer patriotism than has ever existed since the days of the Revolution." Let him do that, before he again denounces the measure on your table as unconstitutional and revolutionary. Sir, the Senator is mistaken: it is *he* who is revolutionary. It is *he* who, discarding the authority of precedent of his own creation, would unsettle the foundations of the policy of the Government for forty years of its existence—the policy of Washington, and Ames, and Sherman, and Madison, and Monroe, and Gerry, and Gallatin—in one word, of the conscript fathers of the Republic. If that policy contained the seeds of revolution, the men of the Revolution planted them. If it be a war upon the Constitution, the fathers of the Constitution themselves declared it. If it be the path that leads to despotism, to resistance, to disunion, the sages who consolidated the Union, who gathered the scattered elements of the Confederation of 1776, and bound them up into one great and harmonious system of Government—they have pursued that path before us. Whatever may be the feelings of other gentlemen, I feel that it cannot be unsafe to follow where such men have led. They were wise men and patriots; honest, capable, faithful to the Constitution," or the history of their lives is a miserable tale of deception, and falsehood, and fraud.



Yet, gentlemen in opposition, announce their purpose to repeal this charter! The Senator from Ohio [Mr. ALLEN] leads off, and tells us, in his place, with an air of strong, but, he may be assured, of misplaced defiance, that, on the day this bill becomes a law, *he—he* will lay on the table a bill for its repeal. The thunders of an incensed people have scarcely ceased to peal throughout the land—the gentleman and his party have scarcely risen from the shock—and is he so desperate as to provoke once more the terrible genius of the storm? Sir, when that Senator shall convince this nation that *he does*, and that the Congress of '91 *did not*, understand the true principles of the Constitution; when he shall convince this nation that *he* is its only “infallible expounder,” and that Washington, and Madison, and Marshall were dolts and blockheads, I do not say that the days of the Government will be numbered, but I *do* say, that the period of its decline and degeneracy will be at hand.

The Senator from Pennsylvania, [Mr. BUCHANAN,] to my infinite surprise, avows *his* intention to join the crusade with the Senator from Ohio. “From Georgia to Maine, from the Atlantic to the Rocky mountains,” exclaims the Senator, “the cry of *repeal* will sounded;” and, staking his high reputation on the issue, he vainly attempts to summon to his aid the authority of the late Chief Justice of the Supreme Court of the United States. It is certainly not my purpose to discuss the question now with the Senator from Pennsylvania. My colleague has exhausted the argument, if not to the Senator’s satisfaction, I am sure, to the satisfaction of every unprejudiced mind. I understand the honorable gentleman to post himself on the ground that this is a public, not a private corporation; that, being a mere fiscal agent of the Government, appointed for the subservience of its own purposes, Congress possesses no power to render the grant inalienable, but may withdraw and resume at its pleasure, without any violation of the plighted faith of the nation, or any infringement of vested private rights. Then, sir, I will not appeal to the opinions of the dead, but of the living; and I refer the Senator to an authority higher, it may be, in his estimation, than even that of the late Chief Justice—I mean the *present* Chief Justice of the Supreme Court. In a celebrated report, communicated by Mr. Taney, from the Treasury Department, to Congress, on the 3d December 1833, I read this language:

“In pursuance of the power reserved to the Secretary of the Treasury, by the act of Congress entitled ‘An act to incorporate the subscribers to the Bank of the United States,’ I have directed that the deposits of the money of the United States shall not be made in said bank or branches thereof, but in certain State banks which have been designated for that purpose; and I now proceed to lay before Congress the reasons which induced me to give this order and direction.”

He then quotes the sixteenth section of the charter, from which the power of removal was derived and proceeds:

“It has been settled, *by repeated adjudication*, that a charter granted by a State to a corporation, like that of the Bank of the United States, *is a contract* between the sovereignty which grants it and the stockholders. *The same principle must apply to a charter granted by the United States, and, consequently, the act incorporating the bank is to be regarded as a contract between the United States, of the one part, and the stockholders on the other;* and, by the plain terms of the contract, as contained in the section above quoted the stockholders have agreed that the power reserved to the Secretary over the deposits shall not be restricted to any particular contingencies, but be absolute and unconditional, as far as their interests are involved in the removal. The order, therefore, of the Secretary, directing the public money to be deposited elsewhere, can, in no event, be regarded as *a violation of the contract with the stockholders nor impair any right secured to them by the charter.*”

Now, I submit, Mr. President, that the Senator from Pennsylvania is reckoning without his host. *The question of repeal is not an open question*, and I leave him to relieve himself from the weight of the authority to which I have referred in the best manner he may.

A few words, sir, on this subject to the Senator from South Carolina, [Mr. CALHOUN.] In the face of his position in 1816—in the face of the position of South Carolina in 1821—he has declared, as he lives, that in his opinion, it will be competent for Congress to abrogate this charter, and he proclaims his determination to enter the lists for the repeal. I know of no politician in this country who has taken higher ground in behalf of the inviolability of the national faith than that honorable gentleman. In the discussion which arose in this House, in 1833, upon the removal of the deposits, he concurred with Mr. Taney, that the charter of the bank was a contract between the Government and the stockholders. “The Secretary,” he said, “asserts, *and asserts truly, that the bank charter is a contract between the Government, or rather the People of the United States, and the bank;*” and, having argued upon that postulate, he wound up the argument as follows:

“I have now offered all the remarks I intended in reference to the deposite question, and, on reviewing the whole ground, I must say that the Secretary in removing the deposits has clearly transcended his power; *that he has violated the contract between the bank and the United States;* that, in so doing he has deeply injured that large and respectable portion of our citizens, who have been invited, *on the faith of the Government*, to invest their property in the institution; while, at the same time, he has deeply injured the public in its character of stockholder; and, finally, *that he has inflicted a deep wound on the public faith.*” “To inflict a wound anywhere, *particularly on the public faith*, is to embarrass all the channels of currency and exchange; and it is *to this, and not to the withdrawing the few millions of dollars from circulation, that I attribute the present moneyed embarrassments.*”



Sir, the public faith! *Who* does not know how much is wrapped up in the comprehensive import of that single term? What American Senator does not feel that his own personal honor is involved in the reservation inviolate of the faith of the Republic? Who is there among us to cast a stain on the spotless integrity of the national character? There are none, I trust, sir—none, none. Whatever may be the conflicts of opinion in this Hall, however widely we may be separated by party lines, whenever that question shall arise, it will be found that the American Senate will unite as one man in support of the faith and honor of the country.

For myself, I have no fears of the result of this threatened movement for repeal. The People of the United States are not prepared for that. It will be difficult to satisfy them that Washington and Madison so far misconceived the true spirit of the Constitution as for the one to establish, and the other to follow, a legislative precedent utterly destitute of constitutional authority. It will be difficult to satisfy them that the policy of the father of his country was the result of any other than a high regard to the requirements of the Constitution, the permanence of the Government, the happiness and prosperity of the people, the glory of the Republic. Sir, that policy in its origin was no party invention. It sprung from the necessities of the Revolution. It was continued from a belief that the bank was required as an instrument of the national prosperity. Crushed by the power of party in 1811, it rose again in 1816 from the operation of the causes that produced it. A power stronger than that of party—the veto of the President—crushed it a second time in 1832. Once more the people have interposed, and have taken the subject into their own hands. Years of bitter experience have awakened their attention to the only efficacious remedy for the distresses of the country. They have declared their will to be that the currency be reformed, and we are here to execute it. Sir, shall we not comply with their commands? Then, let us go back to the policy of the fathers of the Constitution. Let us pursue their safe and familiar footsteps. “Their ways are ways of pleasantness, and all their paths are peace.” What a spectacle it would be if, forgetting that we are partisans, we were to run up again the flag of the Republic, and engage with one accord in a common effort for the restoration of the national prosperity! That being impracticable, I hope the Whigs of the Senate will not shrink from the performance of their high and imperious duties. The nation expects them to redeem the pledges of the Whig party. I beseech you, sir, let the beneficence of your legislation be displayed in the sure and thorough accomplishment of the work of reform. Unfetter the energies of this broad land. The blessings of an anxious and a suffering people will then fall in torrents upon your heads.

The Senator from Pennsylvania [Mr. BUCHANAN] said the other day that the people of the United States, after the last election of President, desired repose. Well, sir, give them repose; not the repose which arises from a hopelessness of relief; not the repose of a man who, in the extremity of his condition, gives up all as lost, and becomes indifferent to his fate. No, sir; but the repose of a patient after agonizing spasms of disease have been succeeded by returning health and animation. Give them repose—by the energy of your counsels; by the wisdom of your measures; by an ardent devotion to their true interests, and the applause of the nation will be your just reward.



